PRIVACY COUNCIL

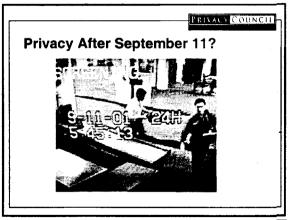
Privacy: the New Management **Imperative**

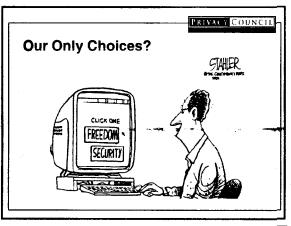
FFIEC Risk Management Seminar

October 11, 2001

San Francisco, CA

The Westin St. Francis Hotel





"US Bancorp and its family of financial service providers understands that confidentiality is important to you and essential in our business. It is our policy that all personal information you supply to us will be considered confidential. This policy holds true no matter how we receive your personal information; over the phone, at our branches, through our ATMs or on-line at this Web site." www.usbank.com/privacy (May 25, 1999).



- US Bank and US Bancorp were guaranteed a minimum payment of \$4,025,000 by MemberWorks for providing confidential bank
- customer information

 > In return for providing personal, confidential customer

In return for providing personal, confidential customer information, MemberWorks also paid Defendants commissions equal to 22% of net membership revenue from sales to

Defendants' customers.

Mête Halch, Atlomey General for the State of Minnesota VS Bank National Association et al. Company Paraparts 12 and 18

- Cardholder name Cardholder address

 - Cardholder phone number
 - Cardholder account-number (scrambled) Last date of purchase information
 - Account open date
 - Account balance

Mike Hatch, Attorney General for the St.

Minnesota v US Bank National Association et al., Complaint Paragraph 16



- Credit limit
 - Credit insurance status
 - Social security number
 Year-to-date finance charge
 - ATD transaction count
 - Credit card type (classic or gold)

Mike Halph, Attorney General for the State of Minnesota v US Bank National Association et al., Complaint Paragraph 16.

- > Brand (US Bank, Express line Rocky MT)
- > Number of credit cards
- Cash advance amount
 - > Behavior score

Date of last payment

Date of birth

Bankruptcy score

Mike Haloh, Attorney General for the State of Minnesota v.US Bank National Association et al., Complaint Paragraph 16.

- Amount of last payment
 - Date of last statement
 - > Statement balance

Mike Hatch, Attorney General for the State of Minnesota v.US Bank National Association et al., Complaint Paragraph 15.



In re Chase Manhattan Bank, N.A.

- Provided lists of its 20,000,000 customers
- Addresses

Names

- Phone numbers
- Encrypted account numbers
- Mortgage loan numbers

Attorney General of New York Bureau of Consumer Frauds and Protection, in re Chase Manhattan, Assurance of Discontinuance, Para, 4

In re Chase Manhattan Bank, N.A.

- Credit card usage
- Credit line Last transaction
- Credit balance

Attorney General of New York Bureau of Consumer Frauds and Protection, In re Chase Manhattan, Assurance of Discontinuance, Para. 4



GLB Privacy Requirements

- Create a notice that accurately reflects your privacy policies and practices.
- > Provide that notice to each customer at least annually
- > Do not share nonpublic information of a

customer/consumer with a nonaffiliated third party unless

that person is given the opportunity to opt-out.

> Do not disclose account numbers or access codes to nonaffliated third parties for marketing purposes.



GLB Definitions

"Consumer" includes any individual who obtains or has obtained from your institution a financial product/service that is to be primarily used for personal, family or household purposes.



Disclosure of Non-Public Personal Information

A financial institution is prohibited from disclosing nonpublic personal information to a nonaffiliated third party unless the institution has:

Disclosed to the consumer, in a clear and conspicuous manner, that the information may be disclosed to such third party
 Given the consumer an opportunity to opt-out; and

Described the manner in which the consumer can exercise the opt-out.



Transfers of Information

the financial institution:

If the transfer is for the performance of services on behalf of

- > Disclose that the information is going to be provided.
- Obtain a contractual commitment from the third party
- to maintain the confidentiality of the information.

 GLB prohibits a nonaffiliated third party that has received NPI from disclosing the information to others unless the disclosure would have been lawful if made by the financial institution.

Transfers of Information

direct mail marketing; or

Financial institutions are prohibited from disclosing an account number or similar form of access number or

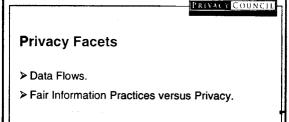
access code for a credit card account, deposit account, or transactions of a consumer to any nonaffiliated third party for use in Felemarketing:

other marketing through electronic mail to the consumer.

GLB Definitions

purpose of this law.

"Customer" is a consumer who has a continuing relationship with your institution through which you provide one or more financial products or services. All customers are consumers for





Fair Information Practices

➤ Notice ➤ Onward Transfer

➤ Choice ➤ Reasonableness

> Access > Dispute Resolution

S Coough.

> Security



Data Flows

- ➤ Business Needs
- ➤ Entry Points
- ➤ Access Points
- ➤ Storage
- ➤ Compilation and Use
- Exchange and Transfer

Privacy: A Business Issue

- ➤ Golden Rules of Privacy:
- > "Do unto the data of others as you would have them do unto your data."
- > "Say what you do and do what you say."



Managing Privacy: Issues

- ➤ Bank's largest supplier asks to have access to select information on specific customers.
- The FBI asks to have immediate access to bank's CRM database.
- CRM database.
 ➤ Bank begins sharing information with affiliated companies to enhance employee security.

Managing Privacy: Issues

- ➤ Bank's Website privacy policy (P3P Compact Policy) does not conform to it's written policy.
- > IE6 warns customers that cookies on Bank's
- Website violate their privacy settings.

 > Bank want to limit the size of a class action lawsuit.



Managing Privacy: Issues

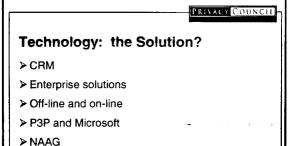
- Bank's Webmaster wants to change functionality of bank's Website.
- ➤ Affiliated entities each manage their own domains but are linked to bank's home page.
- Bank engage a third party to conduct direct marketing campaign.



Examinations:

> "Plumbing Approach".

- ➤ 6 Modules depends upon how bank uses personally identifiable information.
- > Discussion of FFIEC approach.





Technology: Solution or Problem?

➤ Internet Explorer 6.0 and compact privacy

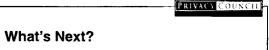
➤ Privacy warnings

statements

> Example: AT&T

➤ Cookies and "Web bugs"

➤ Class action litigation



> How September 11 changed the landscape.

New sensitivities and new liabilities.

> New expectations.

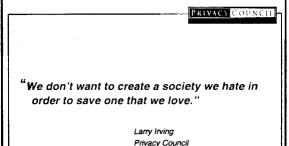
Sensitized juries and politicians.Increased needs and more plaintiffs lawyers?

Increased needs and more plaintins lawyers?

PRIVACY COUNCIL

"They that give up essential liberty to obtain a little temporary safety deserve neither liberty nor safety."

Benjamin Franklin Historical Review of Pennsylvania



Speech, October 9, 2001

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